No. [redacted]

Supreme Court, U.S.
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In The Supreme Court Of The United States

FEBRUARY TERM, 2000

ANTHONY J. TAMBOLLEO,

Petitioner,

v.

MAINE STATE HARNESS RACING COMMISSION AND DAWN RODNEY,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME JUDICIAL COURT OF MAINE

PETITION FOR *WRIT* OF *CERTIORARI*

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I. QUESTIONS PRESENTED FOR REVIEW

A. Whether the Maine Supreme Judicial Court, in affirming a Maine State Harness Racing Commission decision, deprived Plaintiff of his property rights under the Fifth and Fourteenth Amendments of the United States Constitution when it took Plaintiff's horse and gave it to another.

B. Whether the Maine Harness Racing Commission unlawfully compelled Plaintiff into a contract against his will in violation of the U.C.C. Statute of Frauds, the State Statute of Frauds, and its own Rules.

C. Whether the Maine Harness Racing Commission acted capriciously when, in the face of admitted errors by its own officials, the agency determined that the effects of those errors were to be visited upon the Plaintiff and his property taken from him.

D. Whether the Maine Harness Racing Commission acted *ultra vires* and violated Plaintiff's right to equal protection under the law when it failed to observe its own Rules that protect property owners' rights.

E. Whether the Maine Harness Racing Commission violated the Uniform Administrative Procedures Act and principles of due process when it allowed counsel to perform advisory, adjudicatory, and prosecutorial functions.

F. Whether appellate courts in fact provide judicial review when they render decisions in support of administrative agencies without ruling on the issues presented for their review by the Plaintiff.

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Exhibit C Maine Harness Racing Commission Decision
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TABLE OF AUTHORITIES

CONSTITUTIONAL PROVISIONS

United States Constitution, Amendment 5
United States Constitution, Amendment 14 §1

CASES

Columbia Broadcasting System, Inc. v. United States, 316 U.S. 407 (1942)
Rivera v. Illinois Dept. of Public Aid 476 N.E. 2d 1143 (Ill. App. Ct. 1985)

STATUTES

Uniform Commercial Code, Art. 2, Pt.2, §2-201
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IN THE SUPREME COURT OF THE UNITED STATES
FEBRUARY TERM 2000

ANTHONY J. TAMBOLLEO,
PETITIONER,
-VS.-
STATE OF MAINE,
RESPONDENT

PETITION FOR WRIT OF CERTIORARI FROM THE SUPREME JUDICIAL COURT OF MAINE

The Petitioner, Anthony J. Tambolleo respectfully prays that a writ of certiorari issue to review the judgment of the Supreme Judicial Court of the State of Maine entered on the 3rd day of December, 1999.

II. OPINIONS BELOW

On December 3, 1999, the Supreme Court of the State of Maine entered an opinion affirming the decisions of the Maine Superior Court and Maine State Harness Racing Commission that Mr. Tambolleo be deprived of his horse and that it be awarded to a claiming party, Dawn Rodney. A copy of each opinion is attached in as Exhibit A, Exhibit B, and Exhibit C.

III. JURISDICTION

Jurisdiction of this Court is invoked under Title 28, United States Code § 1254(1).

IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. Constitutional Provisions:
   1. United States Constitution, Amendments 5, 14
B. Statutory Provisions:
   1. Uniform Commercial Code, Art. 2, Pt.2, §2-201
   2. Uniform Commercial Code, Art. 2, Pt.3, §2-302
   3. Maine Uniform Administrative Procedures Act, 5MRSA §8002.2; §11007.4C.

See Exhibit D for full text of statutes.

V. STATEMENT OF THE CASE

1) A horse known as *What A Flight*, which had been the property of Plaintiff Anthony Tambolleo for the past five years, was, without request or consent of the owner and by admitted error of the officials, entered as a

claimable horse in a Condition/Claiming race by the officials of Scarborough Downs on August 26, 1998.[1] Mr. Tambolleo informed the State Steward of the error just before the race when he learned that it was printed in the Racing Program. The State Steward, senior track official and member of the administration of the Maine State Harness Racing Commission, told him he could race without jeopardy.

2) Immediately after the race, a claiming party, Dawn Rodney, demanded the horse. Over Mr. Tambolleo's objection, the paddock judge ordered that the horse be surrendered to Rodney.

3) Mr. Tambolleo requested a meeting with the State Steward and judges. On August 30, 1998, the judges admitted their error of the rules, declared the horse unclaimable, and ordered *What A Flight* returned to Mr. Tambolleo.

---

[1] Definitions. A *condition race* is a race for which a horse is eligible on the basis of meeting a *condition*, often, as in this case, an amount of money the horse has won in a given calendar year. A *claiming race* is a race in which a horse may be entered for the purpose of selling to any interested and eligible party. An amount is specified for the claim race, or the owner may specify an alternate sum. *Condition/Claiming races* include horses either meeting a condition or horses being entered for possible claim. Owner's written consent and written authorization (of an acceptable price) are required under MHRC Rules, Chapter 7, Subchapter 2, section 26(C)2 for entry as a claim horse.

4) Dawn Rodney appealed the judges' ruling to the Maine State Harness Racing Commission. At that hearing, Plaintiff entered an Exhibit into the Record that alleged fraud because of specific violations of Commission Rules requiring written consent and authorization. (State's Exhibit 2, Exhibit E below.)

5) The Harness Racing Commission Decision and Order, 9/18/99, overturned the decisions of the State Steward and the track judges, took Mr. Tambolleo's horse, and gave it to Ms. Rodney. The Commission ruled,

> "There is no question that the race secretary's office made mistakes and failed to follow the Commission's rules in the claiming procedures used in this case. However, under the Commission's rules, these mistakes and rule violations do not justify voiding Ms. Rodney's claim....Under the rules, a judge's authority to void a claim is limited to cases involving fraud....No one has alleged that fraud was involved in this case. Consequently, Judge Kelleher's decision must be reversed." (See Maine Harness Racing Commission Decision and Order, Exhibit C.)

6) Mr. Tambolleo immediately filed for appeal in Superior Court.

7) Justice Mills of Cumberland County Superior Court heard the Appeal on June 10, 1999 and affirmed the Commission's decision The Superior Court ruled:

> "The Commission concluded that the race secretary's office made mistakes and did not follow the Commission's rules. The Commission further concluded, correctly, that the claim could not be voided because the horse was not scratched, ran in the race, was claimed by Ms. Rodney, and there was no showing of fraud."

Constitutional, state and federal issues raised by Plaintiff for consideration were ignored by the Court. (See Superior Court Decision and Order, Exhibit B.)

8) The matter was appealed to the Maine Supreme Court, which affirmed the ruling on December 3, 1999:

> "Contrary to Tambolleo's contentions, the evidence in the record sufficiently supports the Commission's decision. See *Mitchell v. Maine Harness Racing Commission*, 662 A2d 924, 926 (Me, 1995). The Commission neither abused its discretion nor committed an error at law." (See Exhibit A.)

The Court addressed none of the issues of property rights, contracts, due process, equal protection, and ultra vires that were raised by Plaintiff for consideration.

VI. REASONS FOR GRANTING THE WRIT

The Maine Supreme Court has sanctioned an order by an administrative agency involving important federal questions, which so far departs from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power. Rules of Supreme Court 10(a).

The Standard of Review for the Superior Court of the State of Maine is described under the Maine Administrative Procedures Act. APA 5 MRSA #11007 Manner and Scope of Review: 4. Decision. The Court may:

> (C) Reverse or modify the decision if the administrative findings, inferences, conclusions or decisions are:
>
> 1) in violation of constitutional and statutory provisions,
>
> 2) in excess of the statutory authority of the agency,
>
> 3) made upon unlawful procedure,
>
> 4) affected by bias and error of law,
>
> 5) unsupported by substantial evidence on

the whole record,

6) arbitrary and capricious and characterized by abuse of discretion.

Plaintiff maintained before both appellate courts that the Maine State Harness Racing Commission violated each of these provisions of the APA.

Violation of constitutional and statutory provisions

The right of citizens to voluntarily enter into contracts is basic to our legal system and abundantly supported in the common law. Contracts are governed by The Uniform Commercial Code and state statutes. Procedural protections for horsemen under the Maine Harness Racing Commission Rules require written consent and authorization for horses to be entered into a claim race. The Maine State Harness Racing Commission ignored these Rules. The Commission's and the Superior Court's justification for taking Mr. Tambolleo's horse rested upon the fact that his horse had been erroneously entered into the daily Racing Program and the horse ran the race. Mr. Tambolleo raced at the instruction of the State Steward, the chief official at the track and the Commission's own administrator at the track, who told him that, since he had not signed consent and authorization forms, his horse was

not claimable and the official's error was irrelevant. Mr. Tambolleo had brought the error to the attention of the State Steward before the race.

Mr. Tambolleo did not voluntarily enter into a claiming race, and did not sign the required forms to be entered into the claiming race nor specify an amount for which he would sell his horse. He did not enter into a contract. The seizing of his property was therefore an unjust taking by the Maine Supreme Judicial Court without just compensation. Amendment 5, Amendment 14.

Commission Counsel, who participated in the Commission Hearing and decision, stated in her briefs that

> "The issue confronted by the Commission was not whether all the rules of the Commission were followed in the claiming procedures used in this case; the issue was whether those errors and violations should be visited on Ms. Rodney." (the claiming party) (Commission Counsel, Superior and Supreme Court Brief, p. 10).

Awarding Mr. Tambolleo's horse to a buyer when there was no agreement by the owner to sell, and doing so on the basis of an error, both constitutes an unjust taking and unfairly punishes one man for the errors of another. It

also forces the Plaintiff into an "unconscionable contract". UCC Part 3 §2-302. (See Exhibit D below.)

Action in excess of the statutory authority of the agency.

The Commission and the Maine Superior Court acknowledged in their decisions that the Harness Racing Commission was in violation of its own rules. Agencies are bound by the rules they promulgate. Columbia Broadcasting System, Inc. v. United States, 316 U.S. 407 (1942). Agencies cannot disregard their own rules, or apply them in a discriminatory fashion. Rivera v. Illinois Dept. of Public Aid 476 N.E. 2d 1143 (Ill. App. Ct. 1985).[2] The validity of an agreement is premised upon adherence to procedural protections and failure substantially to comply with such requirements renders agency actions taken in violation of such requirements *ultra vires*. Plaintiff's raising of *ultra vires* issues was ignored by the Courts upon appeal.

The decision was made upon unlawful procedure; it was affected by bias and error of law.

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[2] Cf. Maine Constitution, Art. 1, Sect. 13: "The laws shall not be suspended but by the legislature or its authority."

Serious procedural errors marred the conduct of the hearing of 9/18/98. Commission Counsel specifically violated provisions of the Uniform Administrative Procedures Act and the Maine Administrative Procedures Act (See Exhibit D). The function of Commission Counsel is to advise the Commission on matters of law when requested. Counsel persistently asserted her bias, her understanding of matters of fact, interpreting for the Commission what Mr. Tambolleo "knew or should have known" and asserting what he said, even against his own testimony. That she participated in the hearing more than any Member of the Commission, actively prosecuted Mr. Tambolleo, and led the Commission to her decision is well supported in the transcript[3]. She then defended the

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[3]E.g., Transcript, p.26-27. Attorney Sparaco:
"I think if you look at your whole chapter here on claiming races, that what you're dealing with in this situation or the way this chapter is, finally resolves itself, is you're dealing with two parties who are innocent to a certain degree of any wrongdoings or mistake by the track. And this chapter, I think, is intended to resolve as between two parties who bears the loss of a mistake by the track under the harness racing rules. And I think, and I happen to agree with the chair's analyses, that once that program has been published and a horse isn't scratched and it races, the burden of the loss then shifts to the person who put it in if it's a mistake, unless there's been fraud; and that's why there's only two very narrow bases on which you can void a claim. But between two innocent parties who bears the loss of a mistake by the officials on a claim. I think it's the person who put the horse in. That's the only conclusion I can come to if I look at the only way you can get your horse out, once it gets in a race, is to scratch it. You have it

decision upon appeal as Commission Counsel before the Courts. Her participation in the hearing commingled advisory, adjudicatory, and prosecutorial functions and violated APA[4] and principles of due process. The Courts ignored issues of due process that were raised upon appeal.

The decision was unsupported by substantial evidence on the whole record.

The Commission ignored the ruling made by the State Steward before the race that Mr. Tambolleo could race without jeopardy. It also ignored its own Rules requiring written consent and authorization, despite constant efforts on the part of Plaintiff and witnesses to bring them to the Commission's attention. This is supported throughout the hearing transcript and illustrated in the footnote below.[5]

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scratched because of an error before it races or by showing fraud. Because somebody's going to get hurt in this situation, it's inevitable, you know, you know, through no necessary fault of their own but there's varying degrees of culpability here."

[4] See The Attorney General's Manual on the APA, IV. Section 5: Adjudication; c) Separation of Functions.

[5] *Judge Kelleher*: These people didn't submit a price to claim, Mr. Chairman. (emphasis added)
Chairman Crabtree: ... And therefore you can't void the claim.
Atty. Sparaco: I think that's the point.
Judge Kelleher: But the man did not enter the horse as a claimer.(emphasis added) {Continue next page...}

The decision was arbitrary and capricious and characterized by abuse of discretion.

The arbitrary and capricious nature of the Commission Decision is clear from the Chair's summary. [6] The decision recommended by the Commission Chair was to deprive the Plaintiff of his horse. The Chair selected the

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(Footnote 5, cont). Chairman Crabtree: He probably has a cause of action against the race secretary's office at Scarborough Downs. And since the commission rules say that the horse cannot be entered unless the declaration sheet is signed by the person who owns the horse, he'll probably lose that case."

[6] (MHRC Hearing Transcript, p. 25): "Commissioners, I think it's important to be pretty clear about the facts here in this case. Based on the evidence that we have before us, our rules call for written declaration into a race. There was no written declaration into a race. Our rules call for a, ah, claiming authorization form to be on file before a horse can be programmed as a claimer. There was no claiming authorization on file. The rules call for the Race Secretary to clear the race. That couldn't happen accurately in this case apparently because there was no racing authorization on file or form. In fact, we have testimony that doesn't regularly happen. They presume somebody wouldn't put their horse into a claiming race unless there was a claiming authorization form on file. And then someone cleared the program. The program is the official program of the Association or licensee. That is the document which someone who might be considering claiming a race, claiming a horse in a race, knows whether or not the horse is eligible to be claimed. And it seems to me that our rules are designed all the way form having a signed authorization form on file through the clearing of the official program and making sure that everything is accurate. It seems to me that they are designed so that the person putting in the claim can rely upon the information that they see in the official race program in making that claim. And therefore, our rules call for voiding the claim only if there was fraud involved in creating that designation on the official program. And I think that's where I am going to come out."

rules he wished to observe and swept away all rules and procedural protections afforded horse owners. Ignoring some of the rules to the detriment of one party violates principles of equal protection under the law. Amendment 14. The Commission's track officials followed none of the rules governing claiming procedures, yet the validity of the claim was upheld by the Commission.

The Maine Superior and Supreme Courts failed to provide judicial review. Judicial review is a fundamental principle of administrative law. Issues raised by the Plaintiff were not addressed by those bodies; questions presented for review were simply ignored or dismissed without comment in the affirmation of the Harness Racing Commission's decision. The Maine Supreme Court supported its decision with another of its own decisions that did not embody the issues presented by this case.

The deprivation of property sanctioned by this decision, if unaddressed by this Court, will serve as a dangerous precedent subverting the right to contract freely and hold property as guaranteed under the Fifth and Fourteenth Amendments. The permission hereby granted by the Maine Courts to the Maine Harness Racing Commission to ignore the law, their own Rules, and the

principles of due process is subversive of justice and the common weal.

Administrative agencies ought not to be above judicial review by the Courts and the Courts ought not to turn a blind eye to the inadequacies of the adjudicatory proceedings of agencies.

In short, the decision affirmed by the Maine Supreme Court so far departs from the accepted and usual deference afforded these fundamental rights that this Court is beckoned to exercise its supervisory powers.

VII. CONCLUSION

For all the foregoing reasons, Petitioner respectfully submits that the petition for writ of certiorari should be granted.

DATED: February 14, 2000

Respectfully submitted,

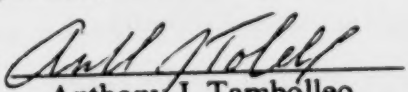
By: 
Anthony J. Tambolleo,
Pro Se

EXHIBIT A

Maine Supreme Judicial Court Reporter of Decisions

Decision No. Mem 99-153
Docket No. Cum.99-409

ANTHONY J. TAMBOLLEO

v.

MAINE STATE HARNESS RACING COMMISSION,

et al.

Submitted on Briefs November 30, 1999

Decided December 3, 1999

Panel: Wathen, C.J. and Clifford, Rudman, Dana, Saufley, Alexander, and Calkins, JJ.

MEMORANDUM OF DECISION

Anthony Tambolleo appeals from the judgment entered in the Superior Court (Cumberland County, Mills, J.) affirming the Maine State Harness Racing Commission's decision to enforce Dawn Rodney's claim to Tambolleo's horse, *What A Flight*, made after a claiming race. Contrary to Tambolleo's contentions, the evidence in the record sufficiently supports the Commission's decision. See *Mitchell v. Maine Harness Racing Commission*, 662 A2d 924, 926 (Me, 1995). The Commission neither abused its discretion nor committed an error at law. See *id.*

The entry is:

Judgment affirmed.

Page 2:

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EXHIBIT B

STATE OF MAINE
CUMBERLAND, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-98-72

ANTHONY J. TAMBOLLEO,
Petitioner
V.
MAINE STATE HARNESS
RACING COMMISSION and
DAWN RODNEY, Respondents

DECISION AND ORDER

Mr. Tambolleo appeals the decision of the Maine State Harness Racing Commission dated 10/2/98. In that decision, the Commission reversed the decision of presiding Judge Kelleher, who voided the claim made by Dawn Rodney on the horse, "What A Flight", in the eighth race at Scarborough Downs on 8/26/98. The Commission sustained Ms. Rodney's appeal of Judge Kelleher's decision. The Commission concluded that the race secretary's office made mistakes and did not follow the Commission's rules. The Commission further concluded, correctly, that the claim could not be voided because the

horse was not scratched, ran in the race, was claimed by Ms. Rodney, and there was no showing of fraud. R47-49; R.46.

The entry is

The appeal is Denied.

The decision of the Maine State Harness Racing Commission is AFFIRMED.

Dated June 17, 1999.

(Signed)

Nancy Mills

Justice, Superior Court

EXHIBIT C

Maine State Harness Racing Commission

Mrs. Dawn Rodney
RR1, Box 2020
Litchfield, ME 04350
CERTIFIED MAIL RETURN RECEIPT REQUESTED

DECISION AND ORDER ON THE APPEAL OF DAWN RODNEY

On September 18, 1998 the Maine State Harness Racing Commission held its hearing on the appeal filed by Dawn Rodney from the decision of the Presiding Judge, Edward Kelleher voiding the claim made by Ms. Rodney on the horse, "What A Flight," in the eighth race on August 26, 1998. Ms. Rodney was represented at a hearing by James Harrington, Esq.

The facts are essentially undisputed. Anthony Tambolleo owned the horse, "What A Flight". Mr. Tambolleo spoke with the Assistant Race Secretary, Joe Figiulio, about racing the horse on August 26, 1998 at Scarborough Downs. Based on his conversation with Mr. Figiulio, Mr. Tambolleo understood that his horse could

race as either a $1,500 claimer or might qualify to race under the "$1,200 in 1998." Mr. Tambolleo expressed his preference that his horse race under the condition $1200 in 1998" but advised Mr. Figiulio to enter the horse as a $1500 claimer in the event the horse did not meet the $1200 in 1998 condition. Mr. Tambolleo's instructions were oral; he never submitted a written claim authorization form. He testified that he trusted the racing officer to enter his horse under the right conditions. Assistant Race Secretary Joe Figiulio testified that it is not unusual for a horse to be entered into a claiming race on the verbal instruction of its owner.

Apparently "What A Flight" met the condition "$1,200 in 1998" but, because of an oversight by the Assistant Race Secretary, the horse was listed in the program and entered to race as a $1500 claimer. Ms. Rodney entered a claim on the horse in accordance with the claiming procedures and took possession of the horse after the race. Sometime thereafter, Presiding Judge Ed Kelleher decided to void the claim, reasoning that Mr. Tambolleo's horse should not have been entered as a claimer by the racing office as the horse qualified under the $1,200 in 1998" condition.

On appeal, Ms. Rodney argues that Judge Kelleher was without authority to void the claim absent a finding of fraud. The Commission agrees. There is no question that the race secretary's office made mistakes and failed to follow the Commission's rules in the claiming procedures used in this case. However, under the Commission's rules, these mistakes and rule violations do not justify voiding Ms. Rodney's claim. When a horse is programmed by error of an official, the rules prohibit the horse from being claimed but only if it is scratched prior to post time. Chapter 7, section 26 C (4). In this case, neither the officials nor Mr. Tambolleo sought to scratch the horse prior to post time. Ms. Rodney, therefore, was entitled to rely upon the printed program when making her claim. Under the rules, a judge's authority to void a claim is limited to cases involving fraud. See Chapter 7, Section 26(F). No one has alleged that fraud was involved in this case. Consequently, Judge Kelleher's decision must be reversed.

ORDER

The Commission sustains the appeal of Dawn Rodney and reverses the decision of the judge.

RECORD VOTE

The vote was unanimous with Commission members Crabtree, Brown, Lord and Gilman voting.

NOTICE OF APPEAL RIGHTS

Any party to this proceeding may seek review of this decision to the extent such review is prohibited by law by filing a petition in Superior Court pursuant to M.R.S.A. Subchapter VII within 30 days after receiving this notice. Any other person aggrieved by this decision may seek judicial review in like manner by filing a petition in Superior Court within 40 days after the date of this decision.

(Signed)

Dated: 10/2/98

Richard Crabtree, Chair
Maine State Harness Racing Commission

Cc: Members of the Maine State Harness Racing Commission
Susan Sparaco, Assistant Attorney Generaal
Edward Kelleher, Presiding Judge
James Harrington, Esq.
Anthony Tambolleo

EXHIBIT D

Uniform Commercial Code-

Article II-Sales

Part 2§1-201. Formal Requirements; Statute of Frauds

(1) Except as otherwise provided in this section a contract for the sale of goods for the price of $500 or more is not enforceable by way of action or defense unless there is some writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this paragraph beyond the quantity of goods shown in such writing.

Uniform Commercial Code-Article II-Sales Part 3. General Obligation and Construction of Contract

§2-302. Unconscionable Contract or Clause

(1) If the Court as a matter of law finds the contract or any clause of the contract to have been unconscionable at he time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the

application of any unconscionable clause as to avoid any unconscionable result.

(2) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect to aid the court in making the determination.

Maine Uniform Administrative Procedures Act, 5MRSA, § 8002.3 Definitions

Agency member. "Agency member" means an individual appointed or elected to the agency who is charged by statute with that agency's decision-making functions. It does not include counsel to the agency or the agency staff.

APA 5 MRSA §11007 Manner and Scope of Review: 4. Decision. The Court may: Reverse or modify the decision if the administrative findings, inferences, conclusions or decisions are:1) in violation of constitutional and statutory provisions, 2) in excess of the statutory authority of the agency, 3) made upon unlawful procedure, 4) affected by bias and error of law, unsupported by substantial evidence on the whole record, 5) arbitrary and capricious and characterized by abuse of discretion.

EXHIBIT E

To: Maine Harness Racing Commission

From: Anthony Tambolleo

Date: September, 18, 1998

Chapter 7, sub.3, sect.26C. Claiming Procedure.

2. Owner's Consent: "No declaration may be accepted unless written permission of the owner is filed with the Race Secretary at the time of declaration. 3.Claiming Authorization. The current registration certificate of all horses entered in claiming races must be on file with the Racing Secretary together with a separate claiming authorization form signed by the registered owner or owners and indicating the minimum amount for which the horse may be entered to be claimed..."

Mr. Tambolleo {I} did not submit claiming authorization forms for my horse "What A Flight". Since I assumed I was not in a claiming race, I submitted no forms. The Courts have consistently ruled that where there is specificity in the law, there is no option to deviate from that specificity.

Chapter 7, sub.2, sect.26F. Void Claims 2: If the judges determine that any claim of a horse is fraudulent on the part of the person making the

claim, they may void the claim and may, at the option of the person declaring it in, return the horse to the person declaring it in."

In this case, the horse was not declared in and therefore was not subject to claim. A claim for a horse not eligible to be claimed must therefor be considered fraudulent. The judges decision to return the horse to its owner must be upheld.

Chapter 1, sub 2. 11. Jurisdiction. The Law of Maine and the Rules of the Maine State Harness Racing Commission shall supercede the conditions of a race, regulations governing meets and rules or regulations of any other jurisdiction.